

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF NOVEMBER 2012, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. CALL TO ORDER**

**B. ROLL CALL**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
W. Wilford Kale, Jr., Jamestown District  
James G. Kennedy, Stonehouse District, Present, via Phone  
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator  
Leo P. Rogers, County Attorney

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** - Sam Collins, a recent graduate of Jamestown High School led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATIONS**

1. Resolution of Appreciation - Anheuser-Busch Williamsburg Brewery

Mr. McGlennon read the Resolution of Appreciation to representatives of Anheuser-Busch and the citizens recognizing their contributions to the County over the past 40 years.

2. Resolution of Appreciation - Ball Corporation Williamsburg Plant

Mr. McGlennon read the Resolution of Appreciation to the representatives of Ball Corporation Williamsburg Plant and the citizens recognizing their contributions to the County over the past 40 years.

3. Resolution of Appreciation - Mr. Dwight R. Dansby

Mr. McGlennon read the Resolution of Appreciation to Mr. Dwight Dansby and the citizens recognizing Mr. Dansby's contributions as the representative of the County to the Peninsula Alcohol Safety Action Program for several decades.

4. Virginia Department of Transportation (VDOT)

Mr. Rossi Carroll addressed the Board and the citizens giving an update on VDOT projects ongoing in the County.

Ms. Jones stated that she wanted to thank VDOT, and Mr. Carroll, for their responsiveness in handling issues in the County.

Mr. Icenhour thanked Mr. Carroll for getting the Old News Road Project underway. He also stated that he really appreciates the responsiveness of VDOT in regards to filling potholes. Mr. Icenhour stated that he appreciated VDOT and Mr. Carroll coming this evening and giving this update.

Mr. Carroll stated he wanted to make sure the citizens knew the number for the VDOT customer service line. This line is the easiest and most efficient way to report road issues and potholes directly to VDOT. Mr. Carroll stated that the customer service line is 1-800-4-ROADS (1-800-367-7623).

Mr. McGlennon stated that in the past, the Board would get printouts of the work orders and various projects going on in the County. He asked if the Board could begin getting those printouts again. Mr. McGlennon also stated that there are still citizen concerns over using the slurry seal for repaving and preserving road surfaces.

#### **F. PUBLIC COMMENT**

1. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board concerning the recent race for the Jamestown Board of Supervisors seat.

2. Mr. Keith White, 6309 Adam's Hunt Drive, addressed the Board concerning the recent race for the Jamestown Board of Supervisors Seat and the soon to be vacant Powhatan Seat.

3. Mr. David Allen, 2001 Busch Neck Road, addressed the Board concerning the Purchase of Development Rights easement listed under Board Considerations on the Agenda.

4. Ms. Caren Schumacher, 119 Elizabeth Harrison Lane, addressed the Board concerning the Purchase of Development Rights easement listed under Board Considerations on the Agenda.

5. Mr. John Pottle, 4233 Teakwood, a representative of Crosswalk Community Church, lead the Board and citizens in a moment of prayer.

6. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating that the Veteran's Day event at Stonehouse was great as usual.

#### **G. BOARD REQUESTS AND DIRECTIVES**

Ms. Jones stated that she had a correction to the October 9, 2012, Regular Meeting Minutes in regards to the vote recorded for the nTelos Cell Tower Case. She stated that the amended minutes are before the Board this evening.

Mr. Icenhour stated that he had asked staff to put together information concerning filling the Powhatan District seat vacancy on the Board. He stated that he indicated to staff that he intended to assume the Jamestown Seat by December 1, 2012. He requested that staff brief the Board on the options that staff has prepared.

Mr. Middaugh stated there are two options in the form of a timeline. He stated that the Board could choose either option and if the Board so chooses, a special meeting can also be included in the timeline. He also stated that before the Board is a copy of the job description and the application for their approval.

Ms. Jones stated that Mr. White asked during the Public Comment if a special election could be held to fill the Powhatan District vacancy, and she thought it would be beneficial for that question to be answered.

Mr. Leo Rogers, County Attorney, stated that a special election cannot be held. He stated that elections are held in November and there is not enough time for one to be done. He stated that State Code provides for the appointment of a Supervisor to fill the vacancy until the following November election.

Mr. Icenhour asked that next year when the Powhatan Seat is voted on, will the winner be required to take the seat in 30 days or would it be like a normal election where the winner takes their seat in January.

Mr. Rogers stated that when filling a vacancy, the election is similar to a Special Election where the winner would be required to take their seat within 30 days of being so elected.

Mr. McGlennon asked the Board for any discussions on the timeline provided by Mr. Middaugh.

Mr. Kennedy stated that he had a question about the Board deciding whom to interview. He stated that was not part of the process last year.

Mr. McGlennon stated that last year the number of applications was a manageable number so the Board interviewed all of the applicants.

Mr. Middaugh stated that the Chairman was correct. The Board waited to see how many applications were received and then decided to interview them all.

Mr. Kennedy stated that the memorandum from staff does not mention anything about conducting the interviews live on television.

Mr. McGlennon asked the rest of the Board if there was any objection to televising the interviews.

Mr. Icenhour said he has no objection to doing the interviews on television. He stated that whom the Board interviews and whether or not they are televised are decisions that can be made at the next meeting. He stated that his concern was getting the application process going as quickly as possible. Mr. Icenhour stated that he is fine with the job description and the application. He stated that he wants staff to get the application process started.

Mr. Kennedy stated that he is concerned about the timeline. He stated that the closing date of November 30 is not a lot of time for people to get applications submitted because of the Thanksgiving Holiday.

Mr. Icenhour stated that Option 1 of the memorandum could be amended with a closing date of December 7 to allow for more time for the submittal of applications. He stated that would still allow for the Board to review applications prior to the December 11 meeting.

Mr. Middaugh asked in terms of the Friday, December 7 closing date, did the Board want to set a time of Noon, or close of business.

Mr. McGlennon stated that close of business was fine.

Mr. Icenhour stated that if that was acceptable, then he would like to make a motion adopting Option 1

of the staff memorandum with the change of the closing date to close of business on December 7, 2012.

Mr. Kennedy asked about the type of advertising being used.

Mr. Middaugh stated that a press release would be sent out to the papers, it would be on the County television station, as well as the County website.

Ms. Jones asked for clarification, for the citizens, about why there are still five Board members on the dais yet the Board is discussing the process for filling the vacancy of the Powhatan Seat.

Mr. Rogers stated that State Code provides a provision for filling a vacancy after a redistricting. That process allows for the Board to appoint someone to fill the vacancy until the next election and the winner of that election can qualify. He stated that the Code says that the winner has 30 days in which to qualify and take the oath.

Mr. Icenhour stated that he intended to qualify and take the oath of office sometime between November 28 and December 1.

Ms. Jones stated that any citizens that have questions regarding the process can contact any member of the Board or staff.

Mr. McGlennon stated that there was a motion on the floor and asked Mr. Middaugh to call the roll.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

Mr. Kale asked the Chairman if he could address Mr. White's comments as well. He stated that there is no provision in the State Code to allow for a Special Election to fill a vacancy of a Board Supervisor. He stated that the Code implicitly states that the sitting Board has the right and the authority to fill the vacancy, and if that decision cannot be made in a specific amount of time, then the decision falls to the Circuit Court. He stated that what Mr. White wants would require a change to the State Code.

## **H. CONSENT CALENDAR**

1. Minutes -
  - a. October 23, 2012, Work Session
  - b. October 23, 2012, Regular Meeting
  - c. October 9, 2012, Amended Regular Meeting Minutes

2. Contract Award – Phase II, Jamestown Beach Park Shoreline Stabilization and Beach Restoration – \$188,524

**RESOLUTION**

**CONTRACT AWARD – PHASE II, JAMESTOWN BEACH PARK SHORELINE**

**STABILIZATION AND BEACH RESTORATION – \$188,524**

WHEREAS, funds are available in the Special Projects/Grants fund and the Maintenance Equipment Jamestown Beach Account; and

WHEREAS, two bids were considered for award and Henry S. Branscome, LLC was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract for Phase II Jamestown Beach Park Shoreline Stabilization and Beach Restoration to Henry S. Branscome, LLC in the amount of \$188,524.

3. Grant Appropriation – Clerk of the Circuit Court – \$46,766

**RESOLUTION**

**GRANT APPROPRIATION – CLERK OF THE CIRCUIT COURT – \$46,766**

WHEREAS, the State Compensation Board has awarded a Technology Trust Fund grant to the Clerk of the Circuit Court totaling \$46,766; and

WHEREAS, the grant will be used for the replacement of computer equipment and records modernization; and

WHEREAS, no local match is required for this grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grant Fund:

**Revenue:**

Revenue from the Commonwealth	<u>\$46,766</u>
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**Expenditure:**

Clerk of the Circuit Court	<u>\$46,766</u>
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4. Funds Transfer – Emergency Solid Waste Disposal Costs – \$14,000

**RESOLUTION**

**FUNDS TRANSFER - EMERGENCY SOLID WASTE DISPOSAL COSTS - \$14,000**

WHEREAS, in July 2012 a windstorm cause damage in various neighborhoods in James City County; and

WHEREAS, disposal fees for residents of the storm were waived to provide assistance to residents; and

WHEREAS, these disposal costs were incurred by the Solid Waste Division and paid from accounts for which there were not sufficient funds for such emergency costs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the transfer of \$14,000 from Operating Contingency to Solid Waste.

5. Resolution of Appreciation - Anheuser- Busch Williamsburg Brewery

**RESOLUTION OF APPRECIATION**

**ANHEUSER-BUSCH WILLIAMSBURG BREWERY**

WHEREAS, Anheuser-Busch has served as an important industry icon in the United States since the 1860s and has had operations in James City County since December 1971; and

WHEREAS, the Anheuser-Busch Williamsburg Brewery investment of \$40 million was at the time the largest capital investment by an out-of-state company in Virginia; and

WHEREAS, Anheuser-Busch Williamsburg Brewery has helped attract other businesses to James City County thereby strengthening and diversifying the area's economic base; and

WHEREAS, Anheuser-Busch Williamsburg Brewery modernized its facility in 2006, a statement of its continued commitment to its investment in James City County; and

WHEREAS, Anheuser-Busch Williamsburg Brewery has been an exceptional corporate citizen through numerous sustainability practices and community involvement, including support of State institutions of higher education and social responsibility programs; and

WHEREAS, Anheuser-Busch Williamsburg Brewery has consistently demonstrated the essential qualities of being a model corporate citizen and has contributed to the economic vitality of James City County for the last 40 years.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recognizes the past and future successes and the many contributions to the County and its citizenry and hereby extends its appreciation to

**ANHEUSER-BUSCH WILLIAMSBURG BREWERY**

6. Resolution of Appreciation - Ball Corporation Williamsburg Plant

**RESOLUTION OF APPRECIATION**

**BALL CORPORATION WILLIAMSBURG PLANT**

WHEREAS, Ball Corporation invested \$12 million to construct the Williamsburg Can Manufacturing Plant from the ground up in 1972 to support Anheuser-Busch Williamsburg Brewery; and

WHEREAS, Ball Corporation has continued to meet national can production needs for the last 40 years by diversifying its business; and

WHEREAS, Ball Corporation Williamsburg Plant has been a landfill-free facility since 2011, a demonstration of its commitment to sustainability practices; and

WHEREAS, Ball Corporation Williamsburg Plant has demonstrated commitment to community involvement with 100 percent employee participation in United Way and annual corporate donations to over 18 community organizations; and

WHEREAS, throughout the last 40 years of business, Ball Corporation Williamsburg Plant contributed to the economic vitality of James City County and consistently demonstrated the essential qualities of being a model corporate citizen in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recognizes the past and future successes and the many contributions to the County and its citizenry and hereby extends its appreciation to

**BALL CORPORATION WILLIAMSBURG PLANT**

7. Resolution of Appreciation - Mr. Dwight R. Dansby

**RESOLUTION OF APPRECIATION**

**MR. DWIGHT R. DANSBY**

WHEREAS, Mr. Dwight R. Dansby faithfully and with honor, integrity, and great distinction served as the representative of James City County to the Peninsula Alcohol Safety Action Program for several decades; and

WHEREAS, Mr. Dwight R. Dansby has always been mindful of alcohol awareness and safety and he has worked tirelessly to advance the Peninsula Alcohol Safety Action Program; and

WHEREAS, Mr. Dwight R. Dansby has provided outstanding leadership and guidance to the Peninsula Alcohol Safety Action Program; and

WHEREAS, Mr. Dwight R. Dansby served in many officer positions of the Policy Board throughout his years of volunteer service, and most recently served as Chair of the Policy Board during Fiscal Years 2009 and 2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby formally acknowledges and extends its profound appreciation to Mr. Dwight R. Dansby for his many years of volunteer service to James City County and to the cause of the Peninsula Alcohol Safety Action Program.

Mr. Kale made a motion to approve all nine items on the Consent Calendar.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

## **I. PUBLIC HEARINGS**

### **1. Case No. SUP-0011-2012. Bernfeld Centerville Road Family Subdivision**

Ms. Leanne Reidenbach, Planner III, addressed the Board giving a summary of the staff report found in the Agenda Packet.

Mr. Icenhour asked for clarification on the layout of the lots. He stated it appeared that the larger lot would be in the front with the three smaller lots in the back.

Ms. Reidenbach stated that that is the intention, however it is subject to any RPAs and where the sewer lines are.

Mr. Kale asked if this is meant to have four lots on this property.

Ms. Reidenbach stated that that would be ideal.

Mr. Kale asked what is not ideal.

Ms. Reidenbach stated that soil samples have not been conducted yet. She stated if there is not adequate space for four lots because of the septic system, then the lots will have to be adjusted to what they can fit on the property.

Mr. McGlennon stated he had some concerns over the fact that the owner does not currently reside on the property. However, the owner has owned the property for about 10 years, and the plan is for the owner to move to the property with their family and reside there.

Ms. Reidenbach stated that yes that is the intention.

As the Board had no more questions for staff, Mr. McGlennon opened the Public Hearing.

As no one wished to speak on the issue, Mr. McGlennon closed the Public Hearing and looked to the Board for direction.

Ms. Jones made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). ABSTAIN: Mr. Kennedy (1). NAY: (0).



## **RESOLUTION**

### **CASE NO. SUP-0011-2012. BERNFELD CENTERVILLE ROAD FAMILY SUBDIVISION**

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Ms. Mariann Bernfeld has requested an SUP to allow for a family subdivision with lots less than three acres in size in an A-1, General Agricultural, District, located at 6120 Centerville Road, further identified as James City County Real Estate Tax Map Parcel No. 3110100025; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0011-2012; and

WHEREAS, the Board of Supervisors is of the opinion that the SUP to allow for the above-mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-0011-2012, as described herein, pursuant to the following conditions:

1. **Plan.** This SUP is valid for a family subdivision for the creation of no more than three new lots and one parent lot with each lot being no less than one acre in size as generally shown on the plan drawn by L.V. Woodson and Associates, Inc., titled "A Survey for Conveyance to Robert H. Yancey, Lot 5 Deed of Partition, John Jones Estate," and dated June 1, 1993. The final number of lots shall be determined by the Director of Planning subject to a review of septic drainfield information and evaluation of Resource Protection Areas on the property.
2. **Access.** Only one entrance serving all lots through a shared driveway shall be allowed onto Centerville Road. The entrance shall meet all appropriate Virginia Department of Transportation (VDOT) requirements.
3. **Water Conservation Guidelines.** The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final subdivision plat approval. The standards shall address such water conservation measures as limitations on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of public water resources.
4. **Commencement.** Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
5. **Severance Clause.** The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

### 2. **Case No. SUP-0009-2012. Murphy Family Subdivision**

Mr. Luke Vinciguerra, Planner, addressed the Board giving a summary of the Staff Report found in the Agenda Packet.

Mr. Icenhour stated that the new lot is inside the RPA, and would need to have a new sewer line to the proposed house. He asked if putting in a sewer line would be permissible inside of the RPA.

Mr. Vinciguerra stated that the applicant has worked with the Health Department and the other lot is able to accommodate the sewer and drain field.

As the Board had no other questions for staff, Mr. McGlennon opened the Public Hearing.

Mr. Will Holt, of the Law Offices of Kaufman and Canoles, addressed the Board on behalf of the applicant. Mr. Holt gave the Board a brief summary of the case. Mr. Holt provided the Board with an aerial view of the property along Sycamore Landing Road. He noted that the Murphy's lot is much larger than the surrounding lots in the area. He stated that by subdividing the Murphy's lot, the resulting two lots would still be larger in size than the surrounding lots.

Mr. McGlennon asked the Board if there were questions for the applicant.

Seeing and hearing none, and as no one else wished to speak, Mr. McGlennon closed the Public Hearing.

Mr. Icenhour made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

## **RESOLUTION**

### **CASE NO. SUP-0009-2012. MURPHY FAMILY SUBDIVISION**

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, the applicant has requested an SUP to allow for a family subdivision with lots less than three acres in size in an A-1, General Agricultural, District, located at 10100 Sycamore Landing Road and further identified as James City County Real Estate Tax Map No. 0720300001; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the SUP to allow for the above-mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Case No. SUP-0009-2012 as described herein with the following conditions:

1. This SUP is valid for a family subdivision for the creation of a lot approximately 1.2 acres in size with the remaining parcel approximately 1.24 acres in size as generally shown on the plan titled "Exhibit Showing Well And Drainfield Locations for Murphy Family Subdivision 10100 Sycamore Landing Road," prepared by AES Consulting Engineers, and dated September 4, 2012.
2. Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the SUP shall become void.

3. The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

## **J. BOARD CONSIDERATIONS**

### **1. The Virginia Department of Transportation (VDOT) Revenue Sharing Program Fiscal Year 2014**

Ms. Tammy Rosario, Principal Planner, addressed the Board giving a summary of the Staff Report found in the Agenda Packet.

Ms. Jones asked for clarification on the County's matching funds. She stated that these funds have not been allocated yet and during the upcoming budget discussions, what happens if the County finds they cannot match.

Ms. Rosario stated that as the budget discussion unfolds, if the County finds they cannot match the funds, then staff would contact VDOT and have the applications pulled.

Mr. Kale stated that he believed the phrasing and language in the resolutions firmly commits the County to funding. He asked if the funding can come from the Contingency Budget that the County has now.

Mr. Rogers stated that it could be done, however he cannot speak to it from a budgetary sense. He stated that the purpose of this resolution is to get in to the grant pool with VDOT. He stated that if the County could not come up with the matching money, then the grant would fail, even if it had been awarded. He stated that the Board has the discretion to make those decisions at the budget discussions later. Mr. Rogers stressed that there is a timeline for these applications, and this resolution allows the County to proceed with the grant applications.

Ms. Jones asked Ms. Rosario what the timeline for submittal was.

Ms. Rosario stated that the applications need to be submitted by the end of November or beginning of December. She stated that the applications are reviewed through spring, when the County would then be notified of any grant money awarded. She stated that any grant awards would come in July, and the County would have a specified amount of time to act with the matching funds.

Ms. Jones stated that she wanted staff to make sure this item was on the agenda for the budget discussions.

Mr. Icenhour made note that the streets in the Williamsburg West Subdivision, which comprise a large chunk of the money in this Revenue Sharing project, are not in the VDOT system. He stated that the County is responsible for them, and by doing this project, these roads could be adopted into the VDOT system and no longer a liability for the County.

Mr. Icenhour made a motion to adopt the resolutions

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

**RESOLUTION**

**REVENUE SHARING PROGRAM-FISCAL YEAR 2014**

**7-ELEVEN ENTRANCE CHANNELIZATION ISLAND – \$30,000**

WHEREAS, the Board of Supervisors of James City County desires to submit an application requesting \$30,000 of Revenue Sharing Funds through the Virginia Department of Transportation (VDOT) Fiscal Year 2014 Revenue Sharing Program; and

WHEREAS, the County will allocate \$30,000 to match Revenue Sharing Program funds; and

WHEREAS, the combined County and State funding totaling \$60,000 is requested to fund the entrance channelization island at the 7-Eleven at 4840 Longhill Road.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports this application for an allocation of \$30,000 through the VDOT Revenue Sharing Program and further approves a County contribution up to \$30,000 toward this project.

**RESOLUTION**

**REVENUE SHARING PROGRAM-FISCAL YEAR 2014**

**WILLIAMSBURG WEST SUBDIVISION STREET RECONSTRUCTION – \$200,000**

WHEREAS, the Board of Supervisors of James City County desires to submit an application requesting \$200,000 of Revenue Sharing Funds through the Virginia Department of Transportation (VDOT) Fiscal Year 2014 Revenue Sharing Program; and

WHEREAS, the County will allocate \$200,000 to match Revenue Sharing Program funds; and

WHEREAS, the combined County and State funding totaling \$400,000 is requested to fund the reconstruction of Williamsburg West subdivision roads.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports this application for an allocation of \$200,000 through the VDOT Revenue Sharing Program and further approves a County contribution up to \$200,000 toward this project.

**RESOLUTION**

**REVENUE SHARING PROGRAM-FISCAL YEAR 2014**

**BIKE/PEDESTRIAN CAPITAL TRAIL ACCESS – \$25,000**

WHEREAS, the Board of Supervisors of James City County desires to submit an application requesting \$25,000 of Revenue Sharing Funds through the Virginia Department of Transportation (VDOT) Fiscal Year 2014 Revenue Sharing Program; and

WHEREAS, the County will allocate \$25,000 to match Revenue Sharing Program funds; and

WHEREAS, the combined County and State funding totaling \$50,000 is requested to fund bike-pedestrian access connections at the Monticello Avenue (Route 321)/John Tyler Highway (Route 5) intersection.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports this application for an allocation of \$25,000 through the VDOT Revenue Sharing Program and further approves a County contribution up to \$25,000 toward this project.

2. Purchase of Development Rights – Offer to Sell a Conservation Easement - \$1,300,000

Mr. Douglas Powell, Assistant County Administrator, addressed the Board giving a summary of the Memorandum in the Agenda Packet.

Ms. Jones asked for clarification on the development potential by the owner.

Mr. Powell stated currently there are five lots, but by right there could be up to nine lots.

Ms. Jones stated that if there was significant investment in the property, including public utilities and road improvements, there would be the development potential of up to 20 additional lots.

Mr. Powell stated that was correct.

Mr. Kennedy stated he would not be supporting this resolution. He stated that he supports the PDR program, but he cannot support this particular application because of the high price and that the property is not in danger.

Ms. Jones stated that she would not be supporting this resolution either. She stated that she supports the program and preserving the nature in the community. However, she stated that she does not believe the development potential is dire, and this purchase would be the largest cost outlay purchase from this program. Ms. Jones stated that while the County can spend the money, she stated that she is not sure that the County should.

Mr. Kennedy stated that he wanted to clarify the phrase “land czar” that many citizens have been speaking out against. He stated that no one on the Board, or staff, ever used that phrase. He stated that the phrase was coined and penned by The Virginia Gazette in one of their headlines.

Mr. Kale stated that he disagreed with Ms. Jones and Mr. Kennedy in regards to the development potential of this property. He stated that in conjunction with another property, the development potential is very high; and he stated that he believes this application will save the property from future development. Mr. Kale stated that he strongly supports this application and hopes that the surrounding landowners will get involved with the PDR program in the future which would protect the whole area from future development.

Mr. Icenhour stated that the application meets every requirement of the program guidelines that the County set up. He stated that it is not necessary to use the bond funds. He stated that if this application receives considerable opposition from the Board, than he would suggest that it is time to reevaluate the entire PDR program. He stated that he would be supporting this application because he believes that the development potential is great and could negatively affect the County if it was developed in the future. Mr. Icenhour also stated that the Board needs to have a serious discussion on the future of this program.

Mr. Kennedy stated that these applications are brought before the Board for a reason, and nowhere in

the guidelines of the program does it say that the Board is obligated to vote in the affirmative. Mr. Kennedy also stated that the Board did have discussions about the PDR program during a work session in the past few months. He stated that there were discussions about green space and land programs. He stated that he is supportive of the programs, just not supportive of this project for the reasons he gave earlier. He stated that the cost of development would be astronomical and therefore he does not believe this property is at risk of development. He stated he is disappointed that the County has not been able to secure PDR rights on other larger pieces of property that are in more scenic areas of the County.

Ms. Jones stated that she continues to hear concerns from citizens about the County spending money on these land acquisitions that could be better utilized elsewhere. She stated that the money would be better served by being prepared for a downturn in the economy, helping to keep taxes low, and supporting our schools and public safety. She stated that hearing those comments from citizens affects her decision and when weighed with the low development potential for this property, she cannot support the application.

Mr. McGlennon stated that he respects the differing opinions of the Board members. He stated that he appreciates Mr. Kennedy being supportive of the program and can understand his concerns over this particular application. Mr. McGlennon stated that he has heard different comments from citizens about this program, and most seem to be in favor of it. He stated that if the County wants landowners to believe that the County is serious about this program, then the ranking system in place in the system should carry some weight in the decision. Mr. McGlennon stated that he is definitely in favor of this application.

Mr. Kale made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Mr. McGlennon (3). NAY: Mr. Kennedy, Ms. Jones (2).

## **RESOLUTION**

### **PURCHASE OF DEVELOPMENT RIGHTS (PDR) - OFFER TO SELL A**

### **CONSERVATION EASEMENT - \$1,300,000**

WHEREAS, the County has received an offer to sell a conservation easement under the Purchase of Development Rights (PDR) Program from David H. and Stephanie M. Allen, owners of the property known as 2001 Bush Neck Road; and

WHEREAS, the owner offered to sell a conservation easement on the property for a purchase price of \$1,300,000 subject to the conditions set forth in the proposed deed of easement referenced in the County's invitation of offer.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the offer to sell a conservation easement described above, or as modified by the County Attorney and authorizes the County Administrator to execute all documents necessary for completing the acquisition.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the PDR Administrator to send a copy of this resolution to the owner of the property identified herein.

**K. PUBLIC COMMENT**

1. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board concerning spending and the PDR program.

2. Mr. Ed Oyer, 139 Indian Circle, addressed the Board concerning spending 1.3 million dollars on land conservation.

3. Mr. Keith White, 6309 Adams Circle Drive, addressed the Board concerning the disenfranchisement of the Powhatan District.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh stated that between November 5 and November 19 and January 2 and January 14, James City County residents may drop off leaves free of charge at the Jolly Pond Convenience Center, 1204 Jolly Pond Road, daily between 7 a.m. and 5 p.m. The County will provide one round of curbside leaf collection, and the collection dates are available on the County Website.

Mr. Middaugh stated that the County is offering citizens and visitors another family-friendly recreational opportunity in New Town, a synthetic ice skating rink in Sullivan Square. The rink opens daily after Thanksgiving, November 23 through January 13. Skating is \$7/person including skate rental or \$5/person with your own skates. Season passes are also available for \$50 and include skates. Sullivan Square is located behind Legacy Hall, in New Town, at 4301 New Town Avenue. Hours of operation and more information are available on the County Website.

**M. BOARD REQUESTS AND DIRECTIVES**

Ms. Jones stated that on Thursday she would be attending the HRTPO and the HRPD board meetings. She asked that staff and citizens look at the legislative agendas online and pass along any comments or suggestions to her prior to the meeting.

Mr. Icenhour stated that he attended the VACo conference with Mr. Middaugh. He stated that the presentation to the finance committee by Delegate Watson was very interesting. He stated that Delegate Watson is supporting a piece of legislation that will add a tax increase on gas to help cover the transportation funding deficit.

Mr. Icenhour requested that staff update the Board on the County's plans to accommodate Black Friday.

Mr. Powell stated that the plan for Black Friday is similar to what has been done in the past few years. He stated that off-site parking will be available and that police will be patrolling the neighborhoods to prevent unauthorized parking.

Mr. Kale asked if unauthorized vehicles in those neighborhoods adjacent to Premium Outlets are able to be moved or towed.

Mr. Powell stated that because of the presence of the police officers they have been able to prevent the parking issues in those neighborhoods. He stated that the County has not had to tow anyone.

Mr. Middaugh stated that the police officers actually intercept the vehicles as they are coming into the

neighborhoods, and turn around those cars that do not reside there.

Mr. McGlennon stated that he also attended the VACo conference and the High Growth Coalition Meeting. He also stated that last week the County held their Celebration of Business with the EDA and recognized our Captain John Smith Award winner, Kingsmill.

**N. CLOSED SESSION** – None

**O. ADJOURNMENT** – to 4 p.m. on November 27, 2012

Mr. Kale made a motion to adjourn the meeting until 4 p.m. on November 27, 2012.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

At 9:02 p.m., Mr. McGlennon adjourned the meeting.

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Robert C. Middaugh  
Clerk to the Board

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